



# Questions & Answers

---

## Water Rights in Washington

The Department of Ecology manages the state's water resources, while trying to meet the varied needs of Washington's public waters. By protecting our natural resources, we preserve our quality of life and ensure a healthy environment, while maintaining a strong economy.

Washington State's rivers serve as a source of community water supply and support production of over 80 billion kilowatt hours of electricity per year, with wholesale value exceeding one billion dollars. Sport anglers spend more than half a billion dollars each year enjoying the fish that thrive in our waters. The state's commercial fisheries are valued at more than \$159 million. More than 1.6 million acres of croplands in Washington are irrigated and provide in excess of two billion dollars of crop value. Of equal importance is the industrial development, recreation, and aesthetic enjoyment. With such great demands being placed on Washington's water supply, water rights play a crucial role in managing and allocating this finite resource.

### **Q.** *What is a water right?*

**A.** A water right is a legal authorization to use a certain amount of public water for specific beneficial purposes. Washington State law requires certain users of public water to receive approval from the state prior to actual use of the water. Approval is granted in the form of a water right permit or certificate. In addition to state-authorized water rights, Washington recognizes valid water right claims and federal reserved water rights.

There is one exemption from the requirement of obtaining a water right. You do not need to apply for a water right if you use a total of 5,000 gallons or less of ground water from a well each day for any of the following combinations:

- ❖ Stockwatering purposes,
- ❖ Single or group domestic purposes,
- ❖ Industrial purposes, or
- ❖ Watering a lawn or noncommercial garden that is a half acre or less in size.

Although you are exempt from the water right permit process in these cases, all other water laws and regulations apply.

### **Q.** *Who needs a water right?*

**A.** A water right is necessary if you plan to divert any amount of water for any use from:

- ❖ Surface waters (water located above ground)

- Lakes
- Rivers
- Streams
- Springs
- ❖ Ground waters
  - If you plan to withdraw more than 5,000 gallons per day; or
  - If you plan to irrigate more than a half acre of lawn or noncommercial garden.

**Q. *Why are water rights required?***

**A.** Water rights ensure proper allocation and management of Washington's water resources. Our state's waters are a public resource and their use should return the maximum benefit to the public.

**Q. *What criteria does Ecology use when making water right decisions?***

**A.** Water right permits are issued by Ecology only if the proposed use meets the following requirements:

- ❖ Water will be put to beneficial use;
- ❖ No impairment to existing, or senior rights;
- ❖ Water is available for appropriation; and
- ❖ Issuance of the requested water right will not be detrimental to the public's welfare.

In making water right decisions, consideration is given to areas with basin assessments or basin management plans, stream closures, instream flows, hydraulic continuity (surface water interconnected to ground water), seawater intrusion, and availability of alternative water supplies.

**Q. *How do I apply for a water right?***

**A.** Water rights are issued by Ecology's regional offices in Lacey, Bellevue, Yakima, and Spokane. Contact the regional office nearest you for a Water Right Application and the accompanying instructions (see addresses on back). The following will help you understand the steps in the process:

1. Fill out your application, using the accompanying instructions. The minimum fee required to file an application is \$10, and more may be needed based on the volume of water requested.
2. Return the completed application to Ecology's regional office, Water Resources Program. Don't forget to include your application fee.
3. Once an application is received by Ecology it will be assessed for completeness. Ecology will send you a *legal notice* for you to publish in a newspaper with general circulation in the county (or counties) where water is to be withdrawn, stored, and used.

The notice is published once a week for two consecutive weeks. It includes:

- ❖ The basic facts of your requested; and
  - ❖ Offer the public 30 days to protest if they feel your proposed water use would impair other uses of the resource. This 30-day protest period begins on the last day that your legal notice is published.
4. After final publication of the notice, send Ecology the original, notarized *Affidavit of Publication*, which is obtained from the publishing newspaper. Ecology cannot take action on your water right request until the Affidavit has been submitted.
  5. Ecology will conduct an investigation of the application, which may include a field examination of your proposal to validate the information on the application and will apply the four criteria mentioned above. The results of the investigation are summarized in a *Report of Examination*. The report contains Ecology's decision on your water right request, which will recommend either a denial or an approval. If approved, your permit may contain specific conditions.
  6. Ecology sends you, and all those who have filed a protest, a copy of the report. You (and others) have 30 days to accept or appeal the Examiner's recommendation to Washington's Environmental Hearings Office, Pollution Control Hearings Board.
  7. Provided there are no appeals to your proposed water use and your permit fee (based on types of use) has been paid, you are issued your *Permit to Appropriate Public Waters*. The permit allows you to begin construction of your water system and to put the water to use. It will contain a reasonable schedule, and a date by which you should put the water to use.
  8. When your construction has been completed and the water has been put to use, you must submit a *Proof of Appropriation* affidavit form. The Proof of Appropriation form includes:
    - ❖ Exactly what facilities or equipment you are operating;
    - ❖ How much water you are using;
    - ❖ For water purpose;
    - ❖ Where the water is being used; and
    - ❖ A statement that all conditions of the permit have been met.
  9. Ecology may choose to inspect your completed project based on the information you have provided in Step 8. After the inspection has been completed, or if Ecology determines an inspection is not necessary, certificate recording fees for the state and county will be requested by Ecology.
  10. Ecology will issue a Certificate of Water Right, based on the information you have submitted and the field inspection. The certificate cannot exceed what has actually been put to use up to the conditions of the permit. Any development authorized requires that a new application be submitted. This certificate is recorded at the County Auditor's Office in the county where the project is located and at Ecology. The County Auditor will forward your certificate to you. It becomes the legal record of your water right.

**Q.** *How long will it take for me to receive my water right?*

**A.** Depending upon the complexities of water availability and use within your watershed, obtaining a water right permit may take anywhere from months to years.

**Q.** *Once I get my water right certificate, what are my rights to use the water?*

**A.** Your rights are outlined in your water right certificate. A water right is subject to relinquishment if it is unused, without sufficient cause, for five or more consecutive years. Once exception is water claimed for municipal water supply purposes. It is important to note and follow any conditions of your permit or certificate.

**Q.** *Does my water right protect me during drought?*

**A.** Not directly. A water right does not guarantee the availability of water during drought. The degree of reliability depends on your seniority as a water right holder.

**Q.** *How do I get more information?*

**A.** For more information about water rights and the application process, please contact the Department of Ecology regional office nearest you.

<b>Northwest Regional Office</b>	3190 - 160th Avenue SE Bellevue, WA 98008-5452	(425) 649-7000 TDD (425) 649-4259
<b>Southwest Regional Office</b>	P.O. Box 47775 Olympia, WA 98504-7775	(360) 407-6300 TDD (360) 407-6306
<b>Eastern Regional Office</b>	N. 4601 Monroe, Suite 202 Spokane, WA 99205-1295	(509) 456-2926 TDD (509) 458-2055
<b>Central Regional Office</b>	15 W. Yakima Ave., Suite 200 Yakima, WA 98902-3452	(509) 575-2597 TDD (509) 454-7673
<b>Vancouver Field Office</b>	2108 Grand Boulevard Vancouver, WA 98661-4622	(360) 690-7171 TDD (509) 458-2055
<b>Nooksack Field Office</b>	1204 Railroad Ave., Suite 200 Bellingham, WA 98225	(360) 738-6250

**This document can be accessed through Ecology's home page on the World Wide Web.  
The address is: <http://www.wa.gov/ecology/>**

*If you have special accommodation needs or require this document in an alternative format, please contact Paula Smith at (360) 407-6607 (Voice) or (360) 407-6006 (TDD).*

## Other Facts You Should Know

- The state water codes are based on a “first in time, first in right” premise. This means that any new water right is subject to existing rights. Therefore, your application may be denied, or your water use may be regulated or modified if it adversely affects existing rights. This will also protect your water right against impairment by future applicants.
- If you propose to use ground water and it is interconnected to surface water, your ground water use may be subject to the same conditions as a proposed or existing surface water use.
- Water rights carry no right-of-way privileges. If the water source you wish to use is not on your property, you must make right-of-way arrangements with the appropriate property owner(s).
- Water right certificates remain attached to the land described on the water right, unless specifically withheld from the deed at the time of sale. When you are buying property, make sure the water right is included with the property. You might want to make sure that the water rights mentioned are valid and recognized by Ecology. In contrast to water right certificates, water right applications and permits are **not** attached to the land and must be assigned to the new water user. Check with Ecology if you have questions about water rights for property you have acquired or are thinking about purchasing.
- Changes to an existing water right can be requested under a separate water right change application.
- If you are required to have a water right, no construction or water use should begin before a water right permit is obtained.

## Definition of Key Terms

### Water Right Claim

A *water right claim* is a statement of claim to a water use that began before the State Water Codes were adopted and is not covered by a permit or certificate. A claim may represent a valid water right if it describes a surface water use that began before 1917 or a ground water use that began before 1945, a water right claim that was filed with the state during an open filing period designated under RCW 90.14 (the Water Rights Claim Registration Act), or is covered by the ground water exemption.

### Water Right Permit

A *water right permit* is permission given to water right applicants by the state to develop a water right. Water rights are developed when water right applicants follow the provisions outlined in their permit, using water for the purposes and up to the limits stated in the permit. Water right permits remain in effect until the water right certificate is issued, if all terms of the permit are met, or the permit has been canceled.

### Water Right Certificate

A *water right certificate* is issued by the Department of Ecology to certify that water users have the authority to use a specific amount of water under certain conditions. These conditions are based on beneficial use of water under your water right permit. The water right certificate is a legal document recorded at your county auditor's office. The certificate completes the process of obtaining your water right. Once a certificate is issued, no expansion is allowed under the water right.